

Form FOC 87

MOTION REGARDING CUSTODY

Use this form if:

- you have a pending case for custody, divorce, separate maintenance, family support or paternity; or
- you are a party who has custody through a judgment of custody, divorce, separate maintenance, or family support order, or an order of filiation.

You cannot use this form:

- to start a custody case; or
- if you are a third party and want to intervene to get custody of the child(ren) in a pending case for custody, divorce, separate maintenance, family support, or paternity.

MOTION CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

DID YOU . . .

1. Fill out all requested information on the form? YES ☐
2. Make all necessary copies? YES ☐
3. Pay the motion fee to the clerk? YES ☐
4. Mail (serve) a copy of the motion on the other party and on any other custodian/guardian after the judge and hearing date were assigned to your case by the clerk? YES ☐
5. Return to the clerk's office **after** you mailed the motion and notice of hearing to the other party and completed the certificate of mailing? YES ☐
6. Keep one copy of the motion and notice of hearing form for yourself? YES ☐
7. Give 2 copies of the completed form to the clerk of the court? YES ☐

If you cannot answer "yes" to all of the above steps, a hearing on your motion may be delayed or your motion may be dismissed.

By using this form packet you are representing yourself in a court action regarding custody. In order to receive the action you seek, you must follow the instructions in this packet. If you fail to do even one of the required steps, the order you get from the court may not give you the custody you want.

If you have any questions about any steps in the process, refer to pages 3 through 5 of this booklet for details.

INSTRUCTIONS FOR USING FORM FOC 87 FILING A MOTION AND SERVING A MOTION

»» FILING A MOTION

1. Fill out the Motion form.

Use the instructions on page 6. Since there is only an original of the form in this packet, print or type neatly. Be careful not to make mistakes.

Before filling out the "Notice of Hearing" part of the form, contact the friend of the court office to find out who to contact about getting a hearing date. Then contact the person or office that the friend of the court office directs you to. Fill in the form with the information you get about the hearing date, location of hearing, and name of the judge or referee who will be hearing the motion.

Make at least 5 copies of the form after you have filled it out.

2. File the Motion form with the county clerk.

Take the original and 5 copies of the form to the county clerk in the county where your case is located.

You must pay a \$20.00 motion fee. If you can't afford to pay the motion fee, ask the county clerk for an Affidavit and Order, Suspension of Fees/Costs (Form MC 20 not included in this packet) to fill out.

The county clerk will write the name of the judge assigned to your case on your form. The clerk will keep the original and 1 copy of the motion and any attachments for the court file and the friend of the court. Then the clerk will return 4 copies and any remaining attachments to you. Do not lose them.

What you should have when you leave the clerk's office:

- 1 Copy of FOC 87 (with any attachments) - for you
- 1 Copy of FOC 87 (with any attachments) - for the other party
- 1 Copy of FOC 87 - for proof of service to the court
- 1 Copy of FOC 87 - for proof of service to the friend of the court

»» SERVING THE MOTION ON THE OTHER PARTY OR PARTIES

1. Serve the Motion and Notice of Hearing on the other party.

The other parent, or other party (if there is a custodian or guardian other than a parent) must be served with (notified of) the motion and hearing date at least 9 weekdays (not including holidays) before the hearing date.

NOTE: Serve the papers by mailing them to the other party by regular, first class mail.

What you need for service:

- 1 Copy of FOC 87 (with any attachments) - for the other party
- 2 Copies of FOC 87 - for proof of service
- Any additional copies of FOC 87 (with any attachments) - for another custodian or guardian if there is someone other than the other parent who has care or custody of the child(ren).

Mail 1 copy with attachments to the other party. If there is a custodian or guardian, mail 1 copy and the attachments to them. Then fill out the Certificate of Mailing on the front of the remaining 3 copies. Keep 1 copy for your own records.

2. Return to the county clerk.

Once you have mailed the motion and notice of hearing and filled out the certificate of mailing on the remaining 3 copies, return to the county clerk's office with 2 copies. Remember to keep 1 copy for your own records. The county clerk will deliver 1 copy to the friend of the court.

3. Response from other party.

If you receive a response to your motion from the other party, make sure you read it before you attend the hearing. Think about what you want to say on your behalf.

4. Attend the hearing.

You must attend the hearing on the motion.

»» INFORMATION ABOUT ATTENDING THE HEARING

Bring the original and 5 copies of the Order Regarding Custody (Form FOC 89) and, as needed, the Uniform Child Support Order (Form FOC 10) with you to the hearing. Also bring all supporting papers you have and any witnesses who are willing to testify.

1. Since you are representing yourself, you are expected to conduct yourself as an attorney would and to follow the same general rules an attorney would.
2. Make a list of information you feel is important for the referee or judge to know. The information should relate to the reasons stated in your motion. You can use this list as a reminder to bring up the points you feel are important.
3. If you feel you need to order someone to attend this hearing, follow the procedure in Michigan Court Rule 2.506 or consult with an attorney.
4. Go to the judge's court room or referee's hearing room on the scheduled day and time. Dress neatly. Get there 10 or 15 minutes early. Be prepared to spend most of the morning or afternoon in court. Bring any witnesses with you.

5. If you are responsible for preparing the order, bring all copies of your order form.
6. Go into the court room or referee hearing room and tell the referee or clerk (sitting near the judge's bench) your name, that you are there for a hearing, and you are representing yourself. Do not interrupt any hearing in progress. Then take a seat in the back of the courtroom and wait for your case to be called.
7. When you are called, go to the podium and clearly state the following:
 - 1) your name
 - 2) that you are representing yourself
 - 3) that you need a custody order or a change in a custody order
 - 4) the facts or reasons for your request **(bring papers such as reports that support your facts or reasons including income information such as pay stubs, W-2 forms, income tax forms, etc.)**
 - 5) why you believe this order would be in the best interests of the child(ren)
 - 6) whether you have witnesses in court who are willing to testify

Answer the judge's or referee's questions clearly and directly. If the judge or referee wants to hear from the other witnesses, ask them to tell the court what they saw or know regarding your situation.

8. If the other party is in court, he or she will have a chance to speak also. When the other party talks, take notes. Do not interrupt the other party. After the other party speaks, you will have another chance to talk. Taking notes will help you with this.
9. After the judge or referee makes a decision, follow the instructions on the packet for FOC 89, "Order Regarding Custody and Parenting Time". As needed, follow the instructions for the packet for FOC 10 / 52, "Uniform Child Support Order" to complete that part of the order. You are responsible for preparing the order even if you do not get what you are asking.

NOTE: If your hearing was held before a referee and you do not agree with the referee's decision, you have 21 days from the date you receive the referee's recommendation to file an objection and request a de novo hearing before the judge. Use the packet FOC 68, "Objection to Referee's Recommended Order".

INSTRUCTIONS FOR COMPLETING "MOTION REGARDING CUSTODY"

Please print neatly. After filling in the form, you will need to make at least 5 copies of the form.

Items A through J must be completed before your motion can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Before you fill in the Case No., get your court papers for custody, divorce, separate maintenance, family support or paternity and copy the Case No. from those court papers onto this form.
- B** Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes, and if applicable, the "Third Party" box. Copy the names from these court papers onto this form. For example, if your name is in the box that says "plaintiff", then you should write your name in the "plaintiff" box on this motion form.
- You are the "moving party". Once you have written the names where they belong, you must check the box "moving party" in the same box as your name.
- C** **Check only one box.** If you have a judgment or order for custody, divorce, separate maintenance, family support, or paternity, read it carefully to find out if there is any information in it about custody. If there is information about custody, check box a. If there is no information about custody, check box b.
- D** Check this box only if you checked box a. in **C** above. Read your court papers for custody, divorce, separate maintenance, family support, or paternity to find out who was ordered to have custody. Write this information here along with the name(s) of the child(ren).
- E** State who the child(ren) are living with now, the address or location where the child(ren) are living, and the date the child(ren) started living there even if it is different than what was ordered.
- F** State the circumstances that require a custody order or a change in custody. **Explain in as much detail as possible** what has happened. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need 4 copies of this sheet to attach to 4 copies of this form.
- G** State the causes that require a custody order or a change in custody. The judge or referee will review these causes using factors from the Child Custody Act to determine the best interests of the child. **Explain in as much detail as possible** what the causes are. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need 4 copies of this sheet to attach to 4 copies of this form.
- H** Check this box if you and the other party agree about custody. **Explain in as much detail as possible** what you agreed to including support and parenting time. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need 4 copies of this sheet to attach to copies of this form.
- I** You need to **explain in as much detail as possible** what you want the court to order. If you checked **H** above, you only need to write "Same as 4. above". If you need more space, use a separate sheet of paper. You need to include information about support and parenting time as well. Print this information as neatly as you can. You will need 4 copies of this sheet to attach to copies of this form.
- J** Write in today's date and sign your name. Now contact the the Friend of the Court office in your county to find out how to get a hearing date. See page 3 of this booklet for details.
- K** Once you get a hearing scheduled, fill in the full name of the judge or referee who will be hearing this motion, the date of the hearing, the time of the hearing (include whether it is a.m. or p.m.), and the place of the hearing.
- Now go to the county clerk's office with the original and 5 copies of this form and the 4 copies of each separate sheet. The clerk will attach 1 copy of each separate sheet to 4 of the copies. The clerk will return 4 copies to you. Read page 3 of this booklet for details on mailing this form to the other party.
- L** On the date you mail 1 copy (and the separate sheets) to the other party, write in the date and sign your name on the remaining 3 copies.
- Return to the county clerk with 2 copies. See page 4 of this booklet for details.

**STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTY****MOTION REGARDING CUSTODY****A****CASE NO.**

Friend of the Court address

Telephone no.

B

Plaintiff's name, address, and telephone no.

☐ moving party

v

Defendant's name, address, and telephone no.

☐ moving party

Third party name, address, and telephone no.

☐ moving party**C**1. ☐ a. On _____ a judgment
Date

or order was entered regarding custody.

☐ b. There is currently no order regarding custody.**D**☐ 2. The ☐ plaintiff ☐ defendant ☐ third party

was ordered to have custody of the following child(ren):

E3. The child(ren) have been living with _____ at
Name(s)

Complete address

since _____
Date**F**

4. Circumstances have changed as follows that require custody or a change in custody:

Use a separate sheet to explain in detail what has happened and attach. Include all necessary facts.

G

5. Proper cause exists as follows that require custody or a change in custody: Use a separate sheet to explain in detail which factors of the Child Custody Act for determining best interests of the child(ren) are affected by the circumstances in 4. above. Include all necessary facts.

H☐ 6. _____ and I agree to custody, support, and parenting time as follows:
Name

Use a separate sheet to explain in detail what you have agreed on and attach. Include all necessary facts.

I

7. I ask the court to order that custody, parenting time, and support be as follows:

Use a separate sheet to explain in detail what you want the court to order and attach.

I declare that the above statements are true to the best of my information, knowledge, and belief.

J

Date

Moving party's signature

NOTICE OF HEARING

A hearing will be held on this motion before _____

Name of judge or referee

Kon _____ at _____ at _____
Date Time Place

NOTE: If you are the person receiving this motion, you may file a response. Contact the friend of the court office and request form FOC 88.

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this motion and notice of hearing on the other party(ies) by ordinary mail at the above address(es).

L

Date

Moving party's signature

**STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTY****MOTION REGARDING CUSTODY****(A)****CASE NO.****(B)**

Plaintiff's name, address, and telephone no.

☐ moving party

Third party name, address, and telephone no.

☐ moving party**v**

Defendant's name, address, and telephone no.

☐ moving party

4. Continued from page 1.

5. Continued from page 1.

6. Continued from page 1.

7. Continued from page 1.